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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,624	04/02/2004	Joseph S. Wycech	329-010	1059
7590 03/06/2007 John G. Chupa Law Offices of John Chupa and Associates, P.C. Suite 50 28535 Orchard Lake Rd. Farmington Hills, MI 48334			EXAMINER KUHN, ALLAN R	
			ART UNIT 1732	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/816,624

Applicant(s)

WYCECH, JOSEPH S.

Examiner

Allan Kuhns

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 21-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1.Applicant's election of Group I, claims 1-20 with traverse on December 26, 2006 is noted by the examiner. Since no reason was given for the traverse, this is being treated as an election without traverse. Claims 21-57 are withdrawn from consideration.

2.The use of the trademark Terocore has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

3.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4.Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki et al. (6,787,579). Czaplicki et al. teach or suggest the basic claimed method of creating an article of manufacture including providing a structural epoxy foam material, providing a catalyst (column 5, line 42), mixing the structural epoxy foam resin material with the catalyst, thereby creating a certain mixture, creating or providing a mold (note the reference to the choice of mold cavity shape and dimension at column 7, lines 35 and 36), and placing the certain mixture within the mold. It is well known to allow such a mixture to harden within a mold, and such would have been obvious to one of ordinary skill in the art in order to cause the article to "set" in a desired shape.

Czaplicki et al. teach the use of an amine (column 5, line 24), as in claim 3, providing a source of gas, as in claim 4, and it is submitted that the exothermic reaction described at column 3, lines 39-42 causes the gas to be heated. Czaplicki et al. teach at column 2, line 49 that a physical blowing agent is preferably used and air and carbon dioxide, as in claims 7 and 8, are well known physical blowing agents and the use of either would have been obvious to one of ordinary skill in the art in order to create a foam. Vibration, as in claim 5, is also well known and would have been obvious to one of ordinary skill in the art to enhance mixing. Claims 9-12 appear to be essentially statements of intended uses for the articles manufactured, rather than manipulative steps used to distinguish "method" claims over prior art. Please check the spelling with regard to "over" in claim 12.

5.Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki et al. as applied to claim 1 and 3-12 above, and further in view of Harrison et al. (H2047). Harrison et al. teach the aspect of using Terocore to form a shaped article at column 7, lines 54-59. Given this teaching, it would have been obvious to use such a formulation in the method of Czaplicki et al. in order to form an epoxy-based article of desired shape.

6.Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drake et al. (4,131,481). Drake et al. disclose or suggest the basic claimed method of creating an article of manufacture, the method including providing a syntactic cement material (column 2, lines 12-36), providing a catalyst or curing agent, mixing the syntactic cement material with the catalyst or curing agent to create a certain mixture,

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providing or creating a mold, and placing the mixture within the mold (column 2, lines 42-45). It is well known to allow a mixture to cure within a mold and such would have been obvious to one of ordinary skill in the art in order to cause the mixture to "set" in a desired shape.

Drake et al. disclose the presence of water and acrylic, in the mixture, as in claims 14 and 15, and the addition of spheres into the mixture (column 2, line 34), as in claim 16. Incorporation of spheres of the "micro" variety is well known and would have been obvious to one of ordinary skill in the art in order to form a conventional syntactic foam. Claims 17-20 appear to be essentially statements of intended uses for the articles manufactured rather than manipulative steps used to distinguish "method" claims over prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Allan R. Kuhns

ALLAN R. KUHNS
PRIMARY EXAMINER AU 1732

3-3-07